

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

KIM DOTCOM, et al.,

Defendants

)
)
) The Honorable Liam O’Grady
)
)
) Criminal No. 1:12-CR-3
)
)
)

**MOTION OF THE ROTHKEN LAW FIRM AND CRAIG C. REILLY, ESQ. FOR
LEAVE TO ENTER LIMITED AND SPECIAL APPEARANCE ON BEHALF OF
MEGAUPLOAD LIMITED TO FILE [PROPOSED] RESPONSE OF DEFENDANT
MEGAUPLOAD LTD SUPPORTING AND SUPPLEMENTING THE RENEWED
MOTION FOR PROTECTIVE ORDER BY NON-PARTY QTS/CARPATHIA
HOSTING, INC. RE MEGAUPLOAD SERVER EVIDENCE**

Non-parties the Rothken Law Firm and Craig C. Reilly, Esq. (“Movants”), on their own behalf, respectfully move this Court for leave to enter limited and special appearances on behalf of Defendant Megaupload Limited (“Megaupload”) for the purpose of filing the [Proposed] Response Of Defendant Megaupload Ltd Supporting And Supplementing The Renewed Motion For Protective Order By Non-Party QTS/Carpathia Hosting, Inc. Re Megaupload Server Evidence. A copy of the brief that Movants propose to file and argue pursuant to their limited and special appearances is appended hereto for the benefit of the parties and the Court. In the event that the requested leave is granted, Movants respectfully request that the proposed brief be accepted as filed *nunc pro tunc* as of this date.

The grounds for this Court to permit a limited appearance have already been briefed and need not be belabored. Indeed, this Court has already permitted the Rothken Law Firm and Quinn Emanuel Urquhart & Sullivan LLP to appear on a limited basis. *See* April 13 Hrg. Tr. (Dkt. 84) at 27:21-23 (“THE COURT: I am going to allow you to appear limited, for purposes of this hearing

today on a limited basis. I won't hold you in the case after today.''). For present purposes, Movants simply incorporate by reference the prior briefing by Quinn Emanuel Urquhart & Sullivan LLP and the Rothken Law Firm on this point, *see* Memo. in Support of Mot. for Leave to Enter Limited Appearance (Dkt. 60); Rebuttal Memo. in Support of Mot. for Leave to Enter Limited Appearance (Dkt. 79); Mot. for Leave to Enter Limited and Special Appearances (Dkt. 96), focusing herein only on considerations that specially support grant of the requested leave at this time.

Since the instant "renewed" motion for protective order filed by QTS, successor in interest to Carpathia, addresses the same issues for which leave to specially appear was granted on the original motion, Movants respectfully submit that the equities warrant leave to specially appear on QTS' motion.

Given that (1) Megaupload is the proper entity under state and federal privacy laws to access the data on Megaupload's servers; (2) Megaupload is best positioned, with respect to technology, knowledge-base and otherwise, to locate, access, and retrieve consumer data from servers in an expeditious and cost-efficient manner; (3) issues of data preservation and consumer access may be critically and inextricably bound up with Megaupload's criminal defense and pending civil copyright defenses, to the point of implicating due process rights; and (4) Megaupload's seized assets may be proposed as a means of funding consumer access and return of consumer property, again implicating due process rights, Megaupload would respectfully request an opportunity to participate—as and if the Court deems appropriate—in the renewed motion for protective order hearing. Movants therefore respectfully request that the Court permit them to enter a limited and special appearance on behalf of Megaupload for the sole purpose of filing the [Proposed] Response Of Defendant Megaupload Ltd Supporting And Supplementing The Renewed Motion For Protective Order By Non-Party QTS/Carpathia Hosting, Inc. Re Megaupload Server Evidence.

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For the foregoing reasons, Movants respectfully request that the Court grant the undersigned leave to appear on a limited and special basis in order to file the aforementioned brief.

Respectfully submitted,

/s/ Craig C. Reilly

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2015, the foregoing MOTION OF THE ROTHKEN LAW FIRM AND CRAIG C. REILLY, ESQ. FOR LEAVE TO ENTER LIMITED AND SPECIAL APPEARANCE ON BEHALF OF MEGAUPLOAD LIMITED TO FILE [PROPOSED] RESPONSE OF DEFENDANT MEGAUPLOAD LTD SUPPORTING AND SUPPLEMENTING THE RENEWED MOTION FOR PROTECTIVE ORDER BY NON-PARTY QTS/CARPATIA HOSTING, INC. RE MEGAUPLOAD SERVER EVIDENCE, was filed and served electronically by the Court's CM/ECF system upon all registered users.

/s/ Craig C. Reilly

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